

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/12/2021

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MARTHA YOUNG ARZU,

Plaintiff,

- against -

ANDREW M. SAUL,
Commissioner of Social Security,

Defendant.
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19-CV-6451 (VSB)

ORDER

VERNON S. BRODERICK, United States District Judge:

Plaintiff Martha Young Arzu brings this action pursuant to §§ 205(g) and 1631(c)(3) of the Social Security Act (“the Act”), 42 U.S.C. §§ 405(g), 1383(c)(3), seeking judicial review of a final determination of the Commissioner of Social Security (“Commissioner”) denying her application for Disability Insurance Benefits (“DIB”) and Supplemental Security Income (“SSI”). On March 9, 2020, Plaintiff moved for judgment on the pleadings, seeking an order vacating the Commissioner’s determination and remanding for additional administrative proceedings. (Docs. 18, 19.) On May 8, 2020, Defendant cross-moved for judgment on the pleadings, seeking affirmance of his final decision. (Docs. 20, 21.) On May 29, 2020, Plaintiff filed a reply memorandum of law in support of her motion for judgment on the pleadings. (Doc. 22.)

This case was referred to Magistrate Judge Barbara C. Moses on July 12, 2019, for a report and recommendation on the cross-motions. (Doc. 6.) Judge Moses issued her Report and Recommendation to The Honorable Vernon S. Broderick on November 20, 2020. (Doc. 23) (“Report and Recommendation” or “R&R”.) Neither party filed an objection. On May 7, 2021,

Plaintiff filed a letter inquiring about the status of the case. (Doc. 24.) I indicated that a decision was forthcoming. (Doc. 25.)

Before me is Judge Moses's unobjected to Report and Recommendation, which recommends that the case be remanded for further proceedings, at which the ALJ should reconsider the weight assigned to the opinion evidence of record, including Dr. Haftel's opinion concerning Plaintiff's functional limitations, and once having done so, reassess Plaintiff's residual functional capacity. (*See* Doc. 23.) Judge Moses's R&R is thorough and detailed, and I accept its findings and recommendations and direct that this case be remanded for further proceedings consistent with the findings in the Report and Recommendation.

In reviewing a magistrate judge's report and recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within 14 days of being served with a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). When a party submits a timely objection, a district court reviews *de novo* the parts of the report and recommendation to which the party objected. 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). When neither party submits an objection to a report and recommendation, or a portion thereof, a district court reviews the report and recommendation, or that portion, for clear error. *Maldonado on behalf of N.L.M.B. v. Comm'r of Soc. Sec.*, No. 19 Civ. 8074 (ER) (SN), 2021 WL 1158412, at *3 (S.D.N.Y. Mar. 26, 2021); *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); *Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003); *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985).

Here, the Report and Recommendation was filed on November 20, 2020. Although the

Report and Recommendation explicitly provided that “[t]he parties shall have 14 days from this date to file written objections,” (R&R 41), neither party filed an objection. I therefore reviewed Judge Moses’s thorough and well-reasoned Report and Recommendation for clear error and, after careful review of the record, found none. Accordingly, I adopt the Report and Recommendation in its entirety. Plaintiff’s motion for judgment on the pleadings, (Doc. 18), is GRANTED, and Defendant’s motion for judgment on the pleadings, (Doc. 20), is DENIED. This case is remanded for further proceedings consistent with the Report and Recommendation.

The Clerk’s Office is respectfully directed to terminate the motions at Docs. 18 and 20, and to enter judgment remanding this case.

SO ORDERED.

Dated: May 12, 2021
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, flowing style. The first name "Vernon" is written in a larger, more prominent script than the last name "Broderick". The signature is positioned above a horizontal line.

Vernon S. Broderick
United States District Judge